

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

DANIEL ERIC WEINSTEIN, M.D.)

Case No. 800-2015-011038

**Physician's and Surgeon's)
Certificate No. G 88035)**

Respondent)

DECISION AND ORDER

The attached Stipulated Surrender of License and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on December 11, 2017.

IT IS SO ORDERED December 4, 2017.

MEDICAL BOARD OF CALIFORNIA

**By: Kimberly Kirchmeyer
Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2015-011038

14 **DANIEL ERIC WEINSTEIN, M.D.**
15 **2525 S. Dayton Way, #1310**
Denver, CO 80231

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate No.**
17 **G88035**

18 Respondent.

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Karolyn M.
25 Westfall, Deputy Attorney General.

26 2. Daniel Eric Weinstein, M.D. (Respondent) is representing himself in this proceeding
27 and has chosen not to exercise his right to be represented by counsel at his own expense.

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3. On or about May 18, 2007, the Board issued Physician's and Surgeon's Certificate No. G88035 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-011038 and will expire on October 31, 2018, unless renewed.

JURISDICTION

4. On October 2, 2017, Accusation No. 800-2015-011038 was filed against Respondent before the Board. A true and correct copy of Accusation No. 800-2015-011038 and all other statutorily required documents were properly served on Respondent on October 2, 2017. Respondent timely filed his Notice of Defense and request to surrender license. A true and correct copy of Accusation No. 800-2015-011038 is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2015-011038. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2015-011038, agrees that cause exists for discipline, and hereby surrenders his Physician's and Surgeon's Certificate No. G88035 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

10. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Board “shall delegate to its executive director the authority to adopt a ... stipulation for surrender of a license.”

11. This Stipulated Surrender of License and Disciplinary Order shall be subject to the approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

12. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Executive Director on behalf of the Board does not, in her discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees

1 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
2 by the Executive Director on behalf of the Board, Respondent will assert no claim that the
3 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
4 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
5 of any matter or matters related hereto.

6 **ADDITIONAL PROVISIONS**

7 13. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
8 herein to be an integrated writing representing the complete, final and exclusive embodiment of
9 the agreements of the parties in the above-entitled matter.

10 14. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
11 Order, including copies of the signatures of the parties, may be used in lieu of original documents
12 and signatures and, further, that such copies shall have the same force and effect as originals.

13 15. In consideration of the foregoing admissions and stipulations, the parties agree the
14 Executive Director of the Board may, without further notice to or opportunity to be heard by
15 Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

16 **ORDER**

17 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G88035, issued
18 to Respondent Daniel Eric Weinstein, M.D., is surrendered and accepted by the Medical Board of
19 California.

20 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
21 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
22 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
23 of Respondent's license history with the Medical Board of California.

24 2. Respondent shall lose all rights and privileges as a physician and surgeon in
25 California as of the effective date of the Board's Decision and Order.

26 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
27 issued, his wall certificate on or before the effective date of the Decision and Order.

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1 4. If Respondent ever files an application for licensure or a petition for reinstatement in
2 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
3 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
4 effect at the time the petition is filed, and all of the charges and allegations contained in
5 Accusation No. 800-2015-011038 shall be deemed to be true, correct, and admitted by
6 Respondent when the Board determines whether to grant or deny the petition.

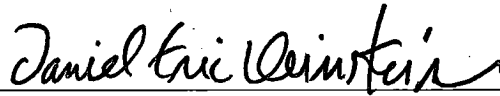
7 5. If Respondent should ever apply or reapply for a new license or certification, or
8 petition for reinstatement of a license, by any other health care licensing agency in the State of
9 California, all of the charges and allegations contained in Accusation, No. 800-2015-011038 shall
10 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
11 Issues or any other proceeding seeking to deny or restrict licensure.

12 ACCEPTANCE

13 I have carefully read the Stipulated Surrender of License and Disciplinary Order. I
14 understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate.
15 I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and
16 intelligently, and agree to be bound by the Decision and Order of the Medical Board of
17 California.

18
19 DATED:

11/15/2017



DANIEL ERIC WEINSTEIN, M.D.
Respondent

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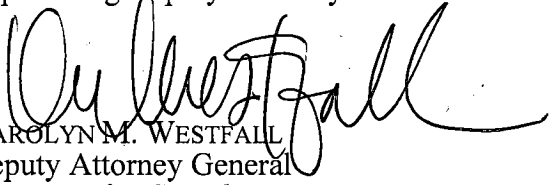
ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 11/27/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General


KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-011038

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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO October 2, 2017
BY: K. Voores ANALYST

10 BEFORE THE
11 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2015-011038

14 DANIEL ERIC WEINSTEIN, M.D.
2525 S. Dayton Way, #1310
15 Denver, CO 80231

ACCUSATION

16 Physician's and Surgeon's Certificate
No. G88035,

17 Respondent.
18

19 Complainant alleges:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24 2. On or about May 18, 2007, the Medical Board issued Physician's and Surgeon's
25 Certificate No. G88035 to Daniel Eric Weinstein, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on October 31, 2018, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states, in pertinent part:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“...”

5. Section 2234 of the Code, states, in pertinent part:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“...”

“(b) Gross negligence.

“...”

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1 “(e) The commission of any act involving dishonesty or corruption which is
2 substantially related to the qualifications, functions, or duties of a physician and surgeon.

3 “...”

4 6. Unprofessional conduct under Business and Professions Code section 2234 is conduct
5 which breaches the rules or ethical code of the medical profession, or conduct which is
6 unbecoming a member in good standing of the medical profession, and which demonstrates an
7 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
8 575.)

9 7. Section 2236 of the Code states, in pertinent part:

10 “(a) The conviction of any offense substantially related to the qualifications,
11 functions, or duties of a physician and surgeon constitutes unprofessional conduct within
12 the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction
13 shall be conclusive evidence only of the fact that the conviction occurred.

14 “...”

15 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
16 deemed to be a conviction within the meaning of this section and Section 2236.1. The
17 record of conviction shall be conclusive evidence of the fact that the conviction occurred.”

18 8. Section 493 of the Code states:

19 “Notwithstanding any other provision of law, in a proceeding conducted by a board
20 within the department pursuant to law to deny an application for a license or to suspend or
21 revoke a license or otherwise take disciplinary action against a person who holds a license,
22 upon the ground that the applicant or the licensee has been convicted of a crime
23 substantially related to the qualifications, functions, and duties of the licensee in question,
24 the record of conviction of the crime shall be conclusive evidence of the fact that the
25 conviction occurred, but only of that fact, and the board may inquire into the circumstances
26 surrounding the commission of the crime in order to fix the degree of discipline or to
27 determine if the conviction is substantially related to the qualifications, functions, and
28 duties of the licensee in question.

1 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and
2 ‘registration.’”

3 9. California Code of Regulations, title 16, section 1360, states:

4 “For the purposes of denial, suspension or revocation of a license, certificate or permit
5 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
6 considered to be substantially related to the qualifications, functions or duties of a person
7 holding a license, certificate or permit under the Medical Practice Act if to a substantial
8 degree it evidences present or potential unfitness of a person holding a license, certificate or
9 permit to perform the functions authorized by the license, certificate or permit in a manner
10 consistent with the public health, safety or welfare. Such crimes or acts shall include but
11 not be limited to the following: Violating or attempting to violate, directly or indirectly, or
12 assisting in or abetting the violation of, or conspiring to violate any provision of the
13 Medical Practice Act.”

14 10. Section 2238 of the Code states:

15 “A violation of any federal statute or federal regulation or any of the statutes or
16 regulations of this state regulating dangerous drugs or controlled substances constitutes
17 unprofessional conduct.”

18 11. Section 2239 of the Code states, in pertinent part:

19 “(a) The use or prescribing for or administering to himself or herself, of any
20 controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or
21 of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to
22 the licensee, or to any other person or to the public, or to the extent that such use impairs the
23 ability of the licensee to practice medicine safely or more than one misdemeanor or any
24 felony involving the use, consumption, or self-administration of any of the substances
25 referred to in this section, or any combination thereof, constitutes unprofessional conduct.
26 The record of the conviction is conclusive evidence of such unprofessional conduct.

27 “...”

28 ///

12. Section 11377 of the Health and Safety Code states, in pertinent part,

“(a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or pursuant to subdivision (h) of Section 1170 of the Penal Code.

“...”

13. Section 11550 of the Health and Safety Code states, in pertinent part,

“(a) A person shall not use, or be under the influence of any controlled substance that is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. A person convicted of violating this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not more than one year in a county jail. The court may also place a person convicted under this subdivision on probation for a period not to exceed five years.

“...”

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1 14. Section 107110 of the Health and Safety Code states,
2 "It shall be unlawful for any licentiate of the healing arts to administer or use
3 diagnostic, mammographic, or therapeutic X-ray on human beings in this state after January
4 1, 1972, unless that person is certified pursuant to subdivision (e) of Section 114870,
5 Section 114872, or Section 114885, and is acting within the scope of that certification."

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Gross Negligence)**

8 15. Respondent has subjected his Physician's and Surgeon's Certificate No.
9 G88035 to disciplinary action pursuant to sections 2227 and 2234, as defined by section 2234,
10 subdivision (b), of the Code, in that Respondent committed gross negligence, as more particularly
11 alleged hereinafter:

12 16. On or about June 23, 2011, Respondent was offered a position as physician and
13 Medical Director of the Osteo Relief Institute¹ through Next Medical Staffing. His duties would
14 have included evaluating new patients for potential arthritis of the knee, and performing knee
15 injections under fluoroscopy. Respondent was informed by Next Medical Staffing that he would
16 need to obtain a Fluoroscopy Supervisor and Operator Permit from the California Department of
17 Public Health (CDPH) before he was able to treat patients with the use of the fluoroscopy
18 machine. Respondent's employment at Osteo Relief Institute was delayed to allow him time to
19 obtain the permit.

20 17. On or about August 31, 2011, Respondent submitted a Fluoroscopy Supervisor and
21 Operator Permit application to CDPH. Respondent was subsequently informed by CDPH, that his
22 application was received, and that he would need to pass the fluoroscopy examination to obtain
23 his permit.

24 18. On or about October 19, 2011, Respondent failed to appear for the fluoroscopy
25 examination.

26 19. On or about November 14, 2011, Respondent failed the fluoroscopy examination,

27 ¹ The Osteo Relief Institute was known at the time as Advanced Spinal Injury Center, but later
28 changed its name.

1 and was later notified by CDPH by mail of his failing score on the examination.

2 20. On or about December 21, 2011, Respondent failed the fluoroscopy examination,
3 and was later notified by CDPH by mail of his failing score on the examination.

4 21. On or about September 4, 2012, Respondent failed the fluoroscopy examination,
5 and was later notified by CDPH by mail of his failing score on the examination.

6 22. On or about October 6, 2012, Respondent failed to appear for the fluoroscopy
7 examination.

8 23. Sometime prior to February 2013, Respondent informed Next Medical Staffing
9 that he passed the examination, and that he had obtained a Fluoroscopy Supervisor and Operator
10 Permit.

11 24. In or around February 2013, Respondent began working at Osteo Relief Institute.

12 25. Between in or around February 2013, through in or around November 2014,
13 Respondent worked at Osteo Relief Institute approximately 3 ½ days each week. Respondent saw
14 approximately 20 to 24 patients each day, and performed knee injections with the use of the
15 fluoroscopy machine on approximately 70% of his patients. Throughout that time, Respondent
16 did not hold a Fluoroscopy Supervisor and Operator Permit from CDPH.

17 26. On or about March 12, 2013, Respondent submitted another Fluoroscopy
18 Supervisor and Operator Permit application to CDPH.

19 27. On or about November 20, 2014, Inspector R.J., from the CDPH Radiologic
20 Health Branch, arrived at Osteo Relief Institute for a previously scheduled inspection. During the
21 inspection, Respondent informed Investigator R.J. that he uses the fluoroscopy mini C-arm
22 machine to perform injections on patients. When Inspector R.J. asked Respondent for a copy of
23 his Fluoroscopy Supervisor and Operator Permit, Respondent handed him a folder and indicated
24 that his permit was located therein. Inspector R.J. was unable to locate the permit in the folder.
25 Inspector R.J. then checked the Radiologic Health Branch search tool, but was unable to locate
26 Respondent's permit by name. Inspector R.J. informed Respondent that he was unable to locate
27 his permit in their system. Respondent was adamant that he had a permit, and provided his social
28 security number as an alternate method to locate his permit. After Inspector R.J. was unable to

1 locate Respondent's permit by social security number, Respondent insisted that he had a permit,
2 and indicated that he would locate his paperwork at home and provide it to the inspector as soon
3 as possible.

4 28. On or about November 20, 2014, Respondent resigned from his position at Osteo
5 Relief Institute.

6 29. On or about November 26, 2014, Respondent met with Inspector R.J. at his office.
7 Inspector R.J. informed Respondent that there was no record of him having a Fluoroscopy
8 Operator and Supervisor Permit, and that his performance of fluoroscopic procedures without a
9 permit was a violation of Health and Safety Code section 107110. Respondent signed off on a
10 Notice of Violation and Radiation User's Declaration, and informed Inspector R.J. that he would
11 try to get a permit as soon as possible.

12 30. On or about January 6, 2015, Respondent passed the fluoroscopy examination, and
13 was issued a Fluoroscopy Supervisor and Operator Permit by CDPH.

14 31. On or about March 16, 2017, Respondent was interviewed by the Division of
15 Investigations. During that interview, Respondent admitted lying to his supervisor at Osteo Relief
16 Institute in or around February 2013, when he informed him that he had passed the fluoroscopy
17 exam. Respondent further admitted that he lied to Inspector R.J. on November 20, 2014, when he
18 claimed he had a Fluoroscopy Supervisor and Operator Permit. Respondent further admitted to
19 using the fluoroscopy machine on patients every day he worked at Osteo Relief Institute.

20 32. Respondent committed gross negligence by performing fluoroscopic patient
21 studies without holding a valid Fluoroscopy Supervisor and Operator Permit.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Dishonesty or Corruption)**

24 33. Respondent has further subjected his Physician's and Surgeon's Certificate No.
25 G88035 to disciplinary action pursuant to sections 2227 and 2234, as defined by section 2234,
26 subdivision (e), of the Code, in that he has committed an act or acts of dishonesty or corruption,
27 as more particularly alleged in paragraphs 15 through 32, above, which are hereby incorporated by
28 reference and realleged as if fully set forth herein.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Using or Administering Controlled Substances to Himself)**

3 34. Respondent has further subjected his Physician's and Surgeon's Certificate No.
4 G88035 to disciplinary action pursuant to sections 2227 and 2234, as defined by section 2239,
5 subdivision (a), of the Code, in that he has used or administered controlled substances to himself,
6 as more particularly alleged hereinafter:

7 35. On or about August 21, 2015, at approximately 1:13 p.m., Respondent was driving
8 a black Subaru at approximately 55 miles per hour on the freeway near Baker, California, when
9 other drivers witnessed him straddling lanes, swerve onto the right shoulder, travel across all
10 lanes of traffic into the center median, and collide into a cement culvert.

11 36. At approximately 1:20 p.m., California Highway Patrol (CHP) Officer J.V.
12 (Officer J.V.), arrived on scene and contacted Respondent. Respondent informed the officer that
13 he was travelling to Colorado from San Diego for a new job. As Officer J.V. spoke with
14 Respondent, he noted Respondent appeared lethargic and confused, his speech was slow, and his
15 pupils were dilated. Respondent informed the officer that he had taken sleeping pills prior to
16 driving.

17 37. After performing poorly on field sobriety tests, Respondent was arrested on
18 suspicion of driving under the influence of drugs, in violation of Vehicle Code section 23152,
19 subdivision (e), a misdemeanor.

20 38. At approximately 2:04 p.m., a blood sample was obtained from Respondent that
21 was subsequently tested for drugs. The results of this sample yielded 79 ng/mL of
22 methamphetamine² and 22 ng/mL of clonazepam.³

23 39. While conducting an inventory of Respondent's vehicle and the surrounding area,
24 CHP Officer J.S. located a small black bag lying on the ground next to the driver's side door of

25 ² Methamphetamine is a Schedule II controlled substance pursuant to Health and Safety Code
26 section 11055, subdivision (d).

27 ³ Clonazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section
28 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is
an anti-anxiety medication in the benzodiazepine family.

1 Respondent's black Subaru. Respondent admitted the bag belonged to him. Inside the bag, the
2 officer found a red funnel, a glass pipe, and two clear bags containing a white crystalline
3 substance. The contents of one of the bags was subsequently tested by the San Bernardino
4 County Sheriff's Department crime lab, and was determined to contain 29.06 grams of
5 methamphetamine.

6 40. On or about August 21, 2015, Respondent was provided a misdemeanor citation
7 and promise to appear from Officer J.V., for a violation of Vehicle Code section 23152,
8 subdivision (e) [Driving under the influence of drugs], Health and Safety Code section 11377,
9 subdivision (a) [Possession of a controlled substance], and Health and Safety Code section 11550,
10 subdivision (a) [Under the influence of a controlled substance].

11 41. On or about December 5, 2016, in the case entitled *The People of the State of*
12 *California vs. Daniel Eric Weinstein*, San Bernardino County Superior Court Case No. 16CR-
13 014948, Respondent was convicted upon his plea of no contest to a misdemeanor violation of
14 Vehicle Code section 23103, subdivision (a) [Reckless driving without injury], and all remaining
15 charges were dismissed. On that same date, the Superior Court sentenced Respondent to
16 probation for three years, subject to various terms and conditions.

17 42 On or about March 16, 2017, Respondent was interviewed by the Division of
18 Investigations. During that interview, Respondent admitted purchasing crystal methamphetamine
19 a few days prior to August 21, 2015. Respondent denied taking any sleep medication in the days
20 leading up to August 21, 2015, but admitted to smoking crystal methamphetamine at a rest stop
21 on August 21, 2015, during his drive from San Diego to Colorado.

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FOURTH CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a Physician and Surgeon)

43. Respondent has further subjected his Physician's and Surgeon's Certificate No. G88035 to disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, in that he has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged in paragraphs 34 through 42, above, which are hereby incorporated by reference as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Violation of State Laws Regulating Dangerous Drugs and/or Controlled Substances)

44. Respondent has further subjected his Physician's and Surgeon's Certificate No. G88035 to disciplinary action under sections 2227 and 2234, as defined by section 2238, of the Code, in that he has violated a state law or laws regulating dangerous drugs and/or controlled substances, as more particularly alleged in paragraphs 34 through 43, above, which are hereby incorporated by reference as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

45. Respondent has further subjected his Physician's and Surgeon's Certificate No. G88035 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 15 through 44, above, which are hereby incorporated by reference as if fully set forth herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. G88035, issued to Respondent Daniel Eric Weinstein, M.D.;
2. Revoking, suspending or denying approval of Respondent Daniel Eric Weinstein, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Daniel Eric Weinstein, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: October 2, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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